

The Relations of the American Lawyer to the State.

AN

ORATION

DELIVERED BEFORE THE ASSEMBLY

OF THE

HARVARD LAW SCHOOL,

AT THE OPENING OF THE FALL TERM,

September, 1859.

BY

JOSEPH C. JACKSON,

OF NEWARK, N. J.

PRINTED BY ORDER OF THE ASSEMBLY.

CAMBRIDGE:

WELCH, BIGELOW, AND COMPANY,

PRINTERS TO THE UNIVERSITY.

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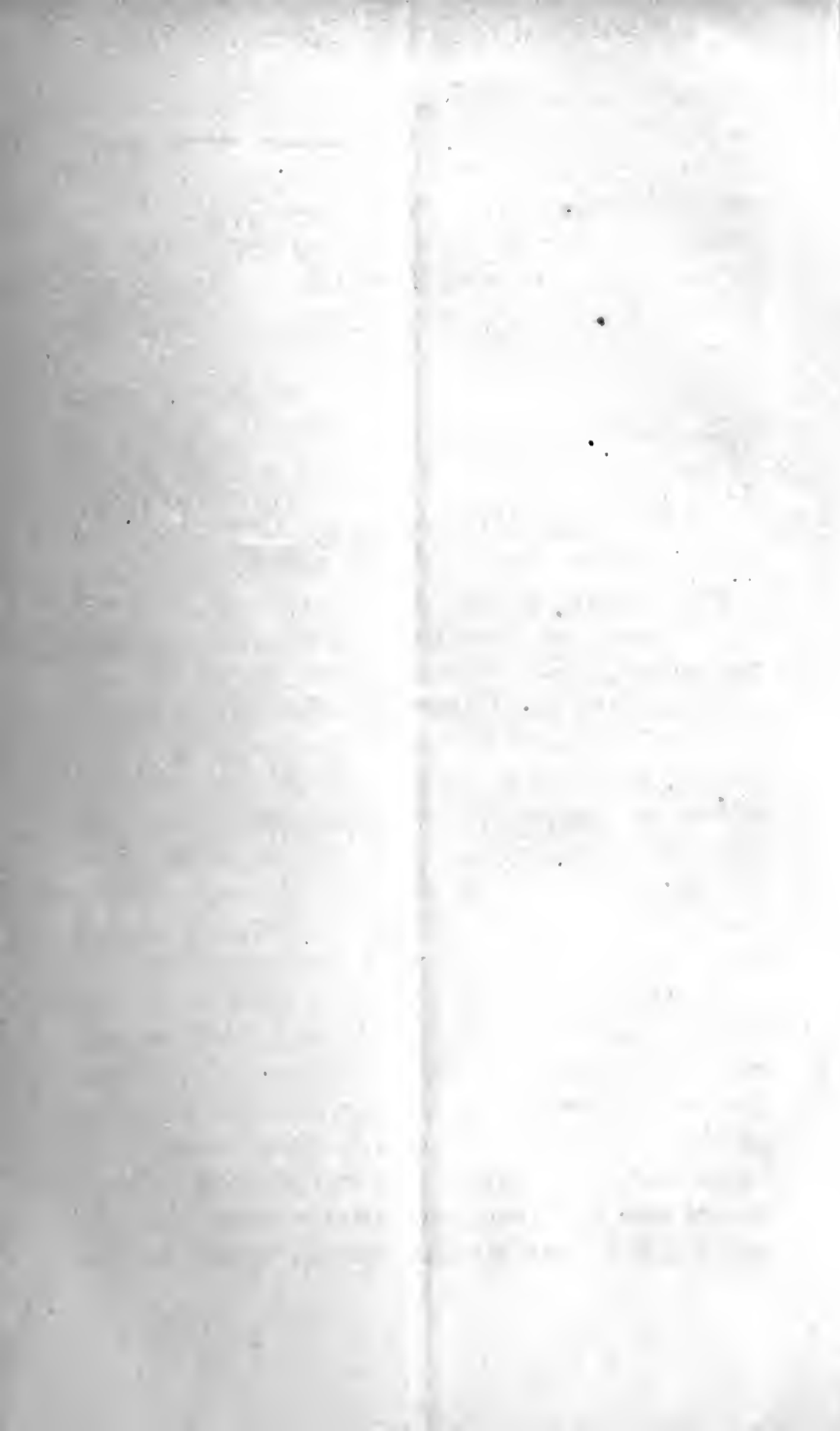
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# ORATION.

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GENTLEMEN OF THE DANE LAW SCHOOL, AND LADIES AND GENTLEMEN WHO HAVE HONORED US WITH YOUR PRESENCE:—

No institution of learning brings together so many young men of marked character and varied experience, devoted to the same pursuit, as a professional school like this. Here are met graduates from the college, with their profession just chosen, and their expectations of Harvard Law School—heightened by the fame of its sons, and its permanent success—now about to be realized; others, from the tuition of a rougher life, which has made the law in their eyes so attractive, yet so difficult; while others still are with us to resume their studies but for a single term, and complete their preparation for a career which may prove long, arduous, and responsible.

To-night we meet to acquaint ourselves with one another, that we may be at peace; may recognize each other as followers of the same pursuit, as encountering the same difficulties, animated by kindred aspirations, assiduous alike at the shrine of Justice; and from her inner temple—enriched with the learning of continents and the records of centuries, hung with the portraits of her mighty dead and graced with the wis-

dom of the living — we soon must depart, to enlist our lives in similar contests in behalf of the one divinity of Truth.

And to *professional* studies we should bring the attempered feelings and thoughtful minds of men. Ignorant of his powers, tastes, opportunities, and responsibilities, — with scores of boys like himself undisciplined and impulsive, — the college student enters a race for what prize, to what goal, he too often neither knows nor cares. The diversions incident to youth and numbers — societies, clubs, *society itself*, companions, libraries, and plans of study — quite bewilder him, and are hard to be woven into a wise, harmonious system. Slow to acknowledge the superior judgment of their instructors, the mass of students slight the prescribed course of study, and graduate just as they begin to appreciate the advantages they have enjoyed. But college life has, at least, developed the powers, and discovered individual aptitudes. It has also impressed upon the mind many invaluable conclusions. It has taught that in every department of thought there always remains something *more* to be learned; that truth, though apparently conflicting, is wholly reconcilable; that the powers of the soul should be ever expanding through a belief in its immortality; and that each to-morrow, as the morning of an ascending life, should “find us farther than to-day.”

Whether derived from the experience of the schools or the world, such, doubtless, are the convictions of us all. Understanding the value of a liberal education, we appreciate the pleasure and utility arising from attainments in the sciences of Mathematics, Natural and Civil History, Language, Metaphysics, and Theology;



and though we cannot now hope for frequent visits to their higher seats, still we should be unwilling that an acquaintance, more or less intimate, with each, should ever wholly cease. The true lover of knowledge, before devoting himself to any special pursuit, will profoundly study the spirit, aim, and mutual relations of the other professions ; for thus only can he put himself in sympathy with all lovers of truth, and be best qualified to act his part in his peculiar sphere.

From a desire of wealth, fame, usefulness, or a livelihood,—guided by reason or intuition, by the example or advice of friends, or borne thence by the ceaseless current of time,—we are now, my friends involved in the study of the Law. Without pausing to ask what motive induced any one to his choice, or what are his proposed plans of study and conduct, let us hope that the other fields of effort have been fairly surveyed, and the decision wisely, as probably it is ultimately fixed. For, much as we might prefer to spend our days in general culture, we are now to be content with but one field of action ; and while consoling ourselves with the thought that ours is perhaps the *most learned* profession, as well as the most sympathetic of them all,—presenting, too, the amplest arena for the activities of the highest genius,—let us not forget that it is to be our sole support, our solace, our pride ; and that upon *its* pages, if at all, we are to pen the historic poem of our life.

Despite, therefore, the warning of Lord Bacon against writing of that of which one has not had “the tincture of experience,” I trust I shall accomplish the purpose for which I am invited to address you, by submitting to your indulgent attention some

thoughts on *The Relations of the American Lawyer to the State.*

To ascertain the relations which the individual sustains to society, let us first inquire into the *nature of Civil Society* itself. It is not the result of a compact between man and man, but is rather the normal condition of our race. The individual did, indeed, exist before the family, and the family before the state; but Aristotle has abundantly proved that, *philosophically*, the idea of the state is antecedent to the perfection both of the family and the individual. Since man is essentially a social being, he can attain his highest personal development only as a member of society. A part may be completed before the whole; but it is only on the completion of the whole that the purpose and utility of the part are seen. The wheels of an engine may be perfect in themselves; but it is only as connected and acting *with* the engine that they are endowed with motion. Man, the animal, could, indeed, eat, live, and die, unaided and unblessed by the contributions of human fellowship; but man, the rational being, is such only when in the bosom of society his higher nature finds nourishment and sympathy.

Civil government is the creature of society. It is a *Divine Institution*, in that society has the *moral* right to establish a government, which its members are *morally* bound to revere. The *idea* of government is of divine origin; its *form* is determined by man, and should express *the aggregate wisdom of the governed*. Generally, the character of its government is at once the cause and result of the character of the state. If the people are republicans, they insist upon a repub-

lic ; if servile, by their servility they tolerate anarchy or support a despotism.

The framers of our government aimed to combine the highest good of the individual with the highest good of society. They did not, like the Grecian republics, merge the individual wholly in the state ; nor, with Hobbes, maintain that the interests of the state are wholly subordinate to those of the citizen. They took a middle course. They believed that man could best progress when aided by the organization of the state, and that the state could best progress when allowing its members the widest range of social, intellectual, and religious freedom. Ours was the first, perhaps the only government, entitled to be called *democratic* ; which admitted, as its definition — *the aggregate wisdom of the governed*.

How beautifully does this theory unite our people in a common brotherhood ! How well it demonstrates the utility of a *division of labor*, and confirms the doctrine that in union is strength ! How superior to any other form does it prove a popular government to be, which first develops individual worth, then consecrates it to the general good ! It dignifies drudgery, by telling the laborer that he is adding to the national wealth. It assures the farmer that his toilsome harvests feed the sources of intellectual and moral life. For every contribution to domestic comfort it offers the mechanic ample protection ; while the artist, whose genius adds refinement to his age, is sure of munificent patronage and ultimate distinction. It accords with the harmonies of nature, mingles with the music of the spheres ; and, while justly exalting every human agency, it humbles each with the thought that

“ All are but *parts* of one stupendous whole.”

As the Omnipotent, when uplifting or depressing nations, when destroying or making alive, or howsoever dispensing his wise, mysterious providences, in part explains his perfect sovereignty by declaring, '*I do all things for myself*;' so the State, surveying her millions engaged in multiform pursuits, exacts from each citizen her just tributes of loyalty and reverence; and, with the blended voice of authority and love, exclaims, 'I live in you, and you in me; our union, is a *vital* one; you are the People, I am the State; the terms are, indeed, convertible; yet, as the expression of legitimacy, and as entitled by its divine origin, the State is supreme.'

From the peculiar structure of American society spring the peculiar relations of its citizens; and particularly should this be remembered while considering the relations the *lawyer* sustains. Our views of his duties and obligations are largely of foreign growth. With the Roman, French, and English laws have more or less prevailed the Roman, French, and English strictures on the duties and functions of the legal profession. Especially, with the common law, have we inherited the latter theory. True, many modifications have been made. But when we consider the difference between a limited monarchy and an unmixed democracy, — between a community composed of nobility, gentry, and laborers, and one in which all are but *common men*, — between one theory, the assimilation of the heterogeneous principles and prejudices of ages, and another, the outgrowth of a solitary, modern idea, — in short, between England and the United States, — we are surprised that we retain so much of the phraseology, the organism, and the life which

characterize the profession in the imperial realm. This adhesion, which often is scarce perceptible, is owing to the conservative tendency of the law itself. With the practice of her advocates, and the decisions of her bench, we imbibe something of the *spirit* of English citizenship.

I forbear to dwell long on the strictly *Professional* relations of the lawyer; for, although it is as a member of some profession that the individual is of importance to the State, yet to inform us what *are* such duties is the peculiar province of this Institution. Through his entire life the lawyer is fashioning his professional character. As it is pre-eminently the outgrowth of natural traits, in no other profession will you find so many types of character,—such various grades of individual development. As no two distinguished lawyers have trod precisely the same path, so no two will recommend the same to others. Upon this ocean each pilot adopts his own course; and it is straight or crooked according to his skill in taking the bearings, and the haven he has in view.

But how important in *preparing* for the bar is the professional school! Here we deal with certainties before attempting uncertainties. At our command is a library which, if discouraging by reason of its size, invites us by its unequalled selection and admirable arrangement. Able and experienced lecturers conduct the student beyond the threshold of each department of law, and instruct him how he can reach the end of the journey they so kindly point out. Conversation, debates, courts, and clubs create an atmosphere of which *at least one half is pure law*; while the trials conducted by the ablest advocates in a neigh-

boring city furnish ample lessons in the arts of practice, pleading, and the management of cases.

The necessity of its scientific study is increased by the *alterations* constantly going on in the law. As facts change, the rules of law must also change. While our improved system of railroad and telegraphic communication has invoked more rapidity and certainty in commercial transactions, it has completely revolutionized the law of bailments, and called into existence a new class of principles. Many reported cases (which are the evidences of the law) are no longer cited as authority.

More of accurate, general information is now demanded of the bar than ever before. If immigration has stimulated industry; if science has augmented the variety and complexity of mechanical implements; if civilization has added states, peopled territories, and nurtured cities, with their manifold individual and corporate interests, — personal rights and duties have become more strictly defined, and important questions for litigation have arisen. And if to a theoretical knowledge of the titles of law and rules of procedure were added a familiar acquaintance with the leading departments of industry, and the minor usages of mercantile life, doubtless one year devoted to the acquisition of such information would materially lessen the perplexity and labor of many years of subsequent practice.

How false, then, and narrow, the theory which recommends to the student a *specialty* merely! The interdependence of its parts, and their self-adjusting tendency, require a general knowledge of the whole science, before an accurate acquaintance with a single branch can be obtained. How futile the attempt to master the doctrines of “Real Estate” without

applying them to "Partnership" or the "Domestic Relations"! A division of labor may justify the experienced practitioner in devoting his talents to his favorite branch; but either he or his associate must ever be in readiness to discharge all other duties of the profession. When we observed on the calendar, opposite one of the oldest legal firms in the great metropolis, a hundred and fifty suits, a hundred and upwards of which were entitled "Summons for Money demand on Contract," we thought of the artisan who makes but the eighteenth part of a pin. We despised not the day of small things, but queried whether both the intellects and purses of those learned gentlemen would not have been enlarged, had they extended their labors into more liberal departments of practice, and gracefully passed some of their "Unpaid Bills" for collection, to the younger members of the fraternity.

This leads me to condemn a *mercenary spirit* which, I fear, is increasing in our profession. In "a free country, with free everything," every one is at liberty to make the most money he can, in a lawful way. He may turn Barnum or Blondin; play chess or billiards; become a pedestrian, pedagogue, pugilist, or politician, — and all for gain. Only let him define his plans and publish his terms. If he enter the bar, and work from six in the morning till six at night, and from seven at night till one in the morning, admit that he is a *day laborer*, and a *night* one, too. Then will the public appreciate his services, and call him — what he deserves. But there is another class of men, the absence of whose conscience is conditioned on the presence of their fee, yet who claim to be called the "advocates of justice;"

*lawyers*, who boast that they cleared Mrs. Cunningham, Cancemi, and Sickles, yet parade themselves as "sworn officers of Court"! Their obligations as citizens, professional dignity, personal character, the refinements of society and of home, — of what value are they to those whose life, whose passion, whose God, is GOLD, and the political emolument and sensual pleasures which it secures! Avarice, more than all other causes combined, defeats justice, impairs the usefulness of the bar, and sinks too many of its followers almost to the level of Satan himself. "An eminent lawyer," says Webster, "cannot be a dishonest man. Tell me a man is dishonest, and I will answer he is no lawyer. He cannot be, because he is careless and reckless of justice. The law is not in his heart, — is not the standard and rule of his conduct."

But our ranks are invaded by another and totally opposite evil. From a pure ambition, from a love of knowledge, or perhaps because their active minds looked for rest only in the grave, some of the ablest and noblest of the bar have, through unceasing toil, prematurely loosed the silver cord of life. And while we respect their genius, and are grateful for their research, their eloquence, and all they have taught us, let a consideration of their untimely death and buried effort warn their professional brethren against extravagance and improvidence in their private fortunes, as well as against unnatural, suicidal toil. "There is," says Bacon, "a certain prudence of giving counsel to others, and another to one's own affairs; sometimes found united, but oftenest separate." "After twenty-five years' observation," says Webster, "I can give it as the condensed history of most, if not all, good lawyers,



that they lived well and died poor." Certainly the numerous cases of broken constitutions and desolate homes should admonish the profession of the folly of excessive application, and the necessity of making suitable provision for their families.

While the variety in the lawyer's business, when properly regulated, increases intellectual vigor and prolongs life, a too jealous guard cannot be kept over his inherited privileges. In many of the States, editors and lawyers are the hardest workers and the worst paid. It is comparatively a modern and limited custom for attorneys to avail themselves of the interim of the courts, and, following the general fashion, to indulge in a summer respite. If the increased demand for brain entitles them to larger fees, it should foster more of a disposition to relieve one another in professional toil. Merchants have their trade-sales, farmers their fairs, brokers their boards, and physicians their conventions to promote their respective interests: why, then, should the intercourse between lawyers be chiefly in the antagonism of trials—their sympathies commingle only through the media of calendars and reports? True, his professional pride springs from his independence and individuality; but amid the asperities of the bar may our fortune be to meet that courtesy and generous sympathy which are equally characteristic. Such elevated intercourse will lighten our most arduous labors, and lend to them a charm which all the aids of material wealth will strive in vain to secure.

The *Social* and *Civil* relations of the lawyer can, perhaps, be best approached by first contemplating the *nature* of Law itself. In the language of Hooker,

✓ “Her seat is the bosom of God, her voice the harmony of the world ; all things in heaven and earth do her homage, the very least as feeling her care, the greatest as not exempt from her power.” As Humboldt declared that the grand result of his life-long labor was “the discovery of Unity in the diversity of phenomena,” so the law, as the rule of all action and being, reveals in Revelation, in Providence, and human consciousness, the *oneness* of Truth. It pervades alike the works of nature and of man, and human plans must ever yield when found in conflict. Admit that the divine command, “Thou shalt not steal,” is likewise an innate principle of the breast, and you have a simple illustration how the law reaches from the throne of God to the firesides of men ; how the moral government of the universe — so far as comprehended — harmonizes with reason, blends with our finer sensibilities, and beats with the pulsations of our gentlest loves. This ubiquitous law is but in part interpreted. Separated from things known by a boundary-line which, indeed, recedes as knowledge increases and the sciences advance, there lies a realm of probabilities, of mysteries, — presenting a wide field for the exercise of reason, — a broad ocean, over which the only star seen is Faith. Human codes, so far as they are just, are but parts of this supreme and universal Law. Religion and humanity, which Guizot terms *the sources of civilization*, can be separated only by barriers false and artificial. Truth enters alike the regions of theology and the broad domains of natural science ; takes her seat in the halls of justice, and walks the battle-fields of earth wherever error is to be overthrown. The wisest and most feasible system of politics and ethics

is found in the teachings of Jesus of Nazareth. Divine law is as essential to the purity and perfection of human law as water to the Falls of Niagara. It is its very life. Our text-books, statutes, and reports but illustrate its application to the affairs of men. Hence the rule that the judge must always sacrifice precedent to principle, but never principle to precedent. As it reconciles duty with interest, by observing its commands man may win money, fame, and power without once losing stroke in those combined and noble efforts which are advancing and exalting our race.

Thus is the law the author and preserver of civil liberty, and it expresses that refined idea of civilization which the savage can never understand. Cicero, defining it according to its derivation, said it *chose* what was best for the state; and the Greeks declared that it *distributed* to every man his due. While dispelling the error that license is liberty, it shows how truth alone can make man free. It demonstrates his capacity for self-government by teaching that knowledge and virtue rescue him from his own passions and the tyranny of others, — that the larger his self-control the more collected is his strength. The higher the civilization of a nation the more numerous are its written and unwritten rules, which point out the most delicate relations between mine and thine, put all things in their right places, and thus make the machinery of social life move on with perfect ease. Her noble system of *jurisprudence* has bequeathed to Rome a loftier fame than the splendor of her architecture, the martial glory which rose, like incense, from the cities she dispeopled and the provinces she subdued, or even her brilliant lessons of ora-

torical power commemorative of festal days; and it was their profound respect for *law* which enabled the earlier Christians to face the frown of Tiberius, the sword of Nero, and the taunts of the apostate Julian, without once forgetting their loyalty to the Roman state.

From the study and application of the principles of law *something of its spirit should be reflected upon the soul*. Burke testified that "it does more to quicken and invigorate the human understanding than all other kinds of learning put together." If it cannot supply what nature has refused, — give its disciple superior genius and essentially change his innate traits, — yet to the whole character it imparts a distinctive tone. And, after all, it is *character*, rather than intellect, which determines a man's influence in the world. Character speaks with ten thousand voices, intellect with but one. It does not, like the genius of the artist, paint its own immortality, nor transmit an Apollo Belvidere to bespeak to future ages its well-won praise; but it possesses an electric energy, an immediate utility, an unostentatious power, and exerts a sway as silent as the descending dews, and as benignant as the vapors which rise and form those welcome summer clouds which break with blessings upon the grateful fields. Though it has its many attributes, yet it is the one resultant, determined by the multifarious thoughts, acts, forces, and circumstances of the individual. It is a delusion to speak of a man's religious as distinct from his political or professional character. His *reputation* may be high for the one and low for the other; he may be a good churchman and a bad lawyer; but his *character* is the indissoluble

union of body, mind, and soul. Think of Napoleon. You contemplate him not merely at Austerlitz, with the fire of military ambition in his eye, nor as writing letters to Josephine; imagination intuitively bodies forth NAPOLEON, — his totality, — and, at its leisure, proceeds to an analysis. — English generals smiled at the tactics of Washington and the discipline of his raw militia; but they quailed before them both; they feared such *characters*. You can no more elevate or depress men to precisely the same level than trample to the same level the waves of the sea. That which is of any weight acquires strength as it goes. There are men who seem to invest everything they touch with intense reality, — whose words, as in the early simplicity of speech, represent actual things. It has been remarked of Webster, that in all his great speeches the statements, arguments, and images had a positive being of their own, — “stood out as plainly to the sight, as a ledge of rocks, or a chain of hills.” The ascendancy of character over genius finds an illustration in that familiar court scene where, after a rhetorician had for a half-hour skilfully enlarged upon the “heaven-wide” difference between two car-wheels, which, to the ordinary observer were exactly alike, his opponent, turning to the jury, bluntly said, “But, gentlemen, there they are — *look* at them!” and his case was won.

Pecuniarily, the value of character is not here so fully seen as it is in England, where, we are told, a barrister has made from twenty to thirty thousand pounds per annum, in representing the claims of Railroad Companies before committees of the House of Commons. It was his accomplishments, his tact, talents, social po-

sition, — in one word, his *character*, — which enabled him successfully to present their claims. And while it is not with mercenary ends in view that a good character is to be acquired or employed, yet, even in our impatient country, an interested public does not suffer it wholly to lose its just reward. Men acknowledge its solvency, and repose in it their most precious trusts.

It is with this instrument that the *lawyer*, pre-eminently, must accomplish the work of life. A conscious intimacy with truth gives to his mind inward peace. Pride, the daughter of ignorance, retires before humility, the child of wisdom. Knowing the temptations which beset the unwary, he is indulgent to human frailty and charitable to misfortune. His, is a permanency of character which is the result of deep insight, and a philosophic contentedness with things around him. And if upon turbulent public affairs the law acts with the steady and overpowering effulgence of the noonday sun, it imparts the twilight tints of kindly sentiment and softened affection to the quiet scenes at home. His social refinement and intellectual culture pervade, in no small degree, the family circle. Time and fashion work their changes, it is true ; besides,

“ *Aliud alii natura iter ostendit:* ”

but the country Squire is the soul of hospitality. “ Their standing in society compels them to live somewhat expensively, and, I may add, their inclinations, too. Lawyers always feel themselves bound to be hospitable. Friends come to town and they must be entertained.” It was this broad symmetry of social, moral, and intellectual development that led a ven-

erable chaplain of the National House of Representatives, to alter the line of Pope, and pronounce

“An honest *lawyer* the noblest work of God.”

A profession composed of “so many different natures, marvellously mix’t,” cannot but exercise a vast influence throughout society. Think of the twenty thousand judges and lawyers in these United States, and what result would be too great to expect, if their latent energy — their reserved force — was aroused into action, as though their hour had come, and, possessing themselves of that broad culture now attained by so few, should seek, through the *perfection of personal character*, to ameliorate society and elevate the race! Confidence would not so often be betrayed, nor opinions tinged with party or personal interests. Suits would not begin so soon, nor terminate so late. The existence of crime would appear no more essential to the support of the lawyer than the prevalence of a plague to the maintenance of the physician. Good would be done by casual intercourse. If words let drop have ruined clients, and sundered forever the friendships of families, timely advice would restrain rash speculation, protect much property, and save many valuable lives.

Besides, the public administration of justice is the chief means of instructing the masses in their civil rights and duties. Other agencies combine to impart general information, and inspire them with correct moral principles of action; but the obligations of the citizen are best taught by the proceedings of courts and the conduct of public men. Let the bar be corrupt, and the bench which it supplies will also be cor-

rupt ; and witnesses, jurors, and spectators will carry back the contagion to the people. On the contrary, had the bar in the times of Empson, Dudley, and Jeffries, promptly and sternly demanded their removal, English history and English law need not blush so deeply at the mention of their names. Happily the courts and literature of law have done more to prop up civil government than all other human agencies combined. Not only have able treatises discussed the endless affinities of business interests, but the forensic efforts of Curran, Erskine, Webster, and others, have poured floods of light upon the political relations of men. Dwarfed by no meanness, ennobled by disinterested zeal, the law appeals to the just, the high-minded, the heroic ; and did the ardent student inwardly believe that truth connected his soul with divinity itself, and

“ — feel his Immortality o’ersweep  
 All pains, all tears, all time, all fears, and peal  
 Like the eternal thunders of the deep  
 Into his ears this truth, — ‘Thou liv’st forever ;’ ”

then, when wielding his glittering sword to win the smile of justice, or protect the fair virtue of the state, would he exhibit much of that lofty passion and chivalric spirit which, even in a selfish cause, has made the Spanish conqueror of Mexico the prince of the heroes of romance.

It is a natural and gradual step from the attorney to the advocate, and from the advocate to PUBLIC LIFE. By *public* life I do not necessarily mean *political* life ; for the *private* citizen has his public services to perform. But wisdom and caution must accompany each step ; for, if aspiring to be a statesman, the lawyer should



aim to be a scientific one. Armed with judgment and insight, versed in the principles of politics and ethics, with facts and statistics ever accessible, who better than he is qualified to deliberate for the public welfare? A glance at the leading elements in our American civilization will suffice to show what are the institutions he will naturally regard.

First is the cause of *education*, embracing the benevolent and charitable institutions of Reform. Public education must have two ends in view, — one having respect to the pupil, the other to the state; — for, if the youth, educated at public expense, are selfishly absorbed in their own pursuits, the state becomes secondary, and her favored offspring, of all others, fractious and ungrateful. But in behalf of the children of poverty and shame, who are taught the arts of industry; in sustaining the common-school, — that elevator, not leveller of the masses, — and in aiding normal schools in training teachers for their noble work, too large expenditures can scarce be made by individuals or the State treasury. And wiser than the dialogues of sophists and cynics, safer than the French University, — teaching an imperialism, — more liberal than Cambridge and Oxford, — employing their royal patronage in making merely Englishmen, — is our system of American colleges, with their broad culture and republican spirit, the wisdom of whose policy cannot be too warmly admired, any more than can their utility and success ever be adequately measured.

All must be struck at the new interest the *clergy* are taking in public measures, and their more general assimilation with the people. No religious sect, I trust, will ever seek political popularity. To preserve

its purity and power, the Church must confine itself to functions wholly spiritual. History shows that in their political acts church dignitaries have been, of all men, most ambitious, false, erratic, and violent. Religious enthusiasm, once admitted into government, binds tighter the fetters of despotism, or dissolves the looser bands of a democracy. Hence must be preserved our tolerance of all religious sects, would we be free alike from the dogmatism of an established church, and the dangerous supremacy of foreign ecclesiastical power. Though religion is a *reasonable service*, yet mysteries there will ever be to exercise the highest faith; and nothing is more evident than that, as men differ in nature, education, and conviction, so differences will exist in creeds and forms of worship. But the furnaces of time will purge the gold of all its dross, and unite the now militant and dismembered church in acknowledging but one Lord and faith.

Our argument has already answered an English theory that, as the lawyer's province is to *apply* the law, he is thereby disqualified to be a *legislator*. Being of the people, — therefore a part of the law-making power, — and made practically aware of the imperfections of our system, he is pre-eminently qualified to suggest their remedy. Conversant with commercial interests, and familiar with proceedings in Admiralty, who better than the city lawyer could improve our international law, or the system of revenue and taxes? Acquainted with the applications of mechanical power, aware of the part manufactures play in eliciting domestic industry and skill, who could unfold a clearer argument on the nature of patents, or tariff regulations than the learned advocate? Observant of the latent

resources and felt wants of an agricultural district, who could better legislate on internal improvements, and represent the people, than the village squire? Other things being equal, it is he who has the largest objects of thought, and whose calling is allied with the greatest variety of important interests, who is best able to consult for the general good; and as the relations of men grow more numerous, intricate, and complex, and the excellences and defects, the claims and offsets of conflicting interests, are to be calmly considered, because involving the public weal or woe, the advice of the ablest and most experienced counsellor is sought and adopted, and he, the people say, is the State's man.

It is not with a view to tempt him from professional duty, and involve the lawyer in the eddies of public life, that these inviting fields have been surveyed; but to inculcate the necessity of a profound acquaintance with the principles of our government, and the leading interests which it is called to protect. True, its machinery is wisely restrained in its operations. The federal head superintends only its more general movements, and leaves to each State its own executive, legislative, and judicial powers. The State, in turn, intrusts much to the county, the county to the township, and the township to the individual; and Solon well said that, as the sea would be calm if the winds did not blow, so would the people if orators and counsellors did not trouble them. But the conduct of those in office needs constant scrutiny; and if lawyers, as a class, are best cognizant of corruption, they are often the last to begin the cure. To preserve a *representative* government *in fact*, and not merely in name, de-

mands the vigilance of each citizen ; and it is as clearly his duty to see that the best men are always nominated for public office, and then to vote for them, as to support his family or attend church. What language can express sufficient abhorrence of the conduct of those who crave the immunities, but shrink from the responsibilities, of American citizenship ; value their country only as the means of selfish aggrandizement, and heedlessly gamble with the suffrages of partisans and foes ; while, at the same time, thousands of the less hopeful are looking on with fear lest, through the unskilful or reckless management of those in power, the stately car of justice should plunge from its track, and sink into the abyss of political ruin !

But the cunning of the unscrupulous cannot be checked, till the apathy of the better class of citizens is first disturbed. Would, then, that the mutterings of the counting-room and the complaints of the parlor at the "sad degeneracy" of our politics were exchanged for the suggestions of practical experience and intelligent discussion ; that our merchants and lawyers would emerge from a selfish, indolent, or cowardly retirement, and, whether in or out of public place,

" Dare do all that may become a man."

Our people must awaken to a just sense of their political responsibilities, would they keep pace with the magnificent march of sister nations. Ancient dynasties are giving way to more democratic forms, and a third Napoleon startles all Europe with the fresh stratagems and weapons he employs in his remarkable career. Even from the British realm are heard loud voices for a change. No longer content that castes

and opinions should determine the principle of representation, to the prejudice of numbers and wealth ; witnessing what impulse democracy infuses into the American mind, and how national pride is fostered by an equal participation in political rights ; amazed that our civilization keeps abreast with that of the oldest and most powerful nations, and fascinated with the unity which pervades so wide a territory, — not a few intelligent Englishmen are contemplating reforms no less serious than the abandonment of the hereditary principle of representation, and the enlargement of the power of the House of Commons, with the ultimate view of placing their imperial government on a basis similar to our own.

But, although bribery just now finds its secret way into every chair of our public service, and the enormous abuses of wealth, patronage, and power unmask the selfishness even of those intrusted with the interests of the state, still, if genuine Christianity continues to be the fundamental law of the land, we can logically look for a gradual improvement in public morals, and confidently anticipate the ultimate triumph of private virtue. In the activity displayed in all material interests ; in the unexampled diffusion of knowledge ; in the unknown efficiency of public common sense ; in the restlessness of the adherents to frail religious creeds and unsound political dogmas, as well as in the firmness of the believers in evangelical religion, and the friends of the constitution ; in the freedom of speculation which, though it may make the members of one family to differ on non-essential points, unites them in the development of an intelligent individuality ; in that feature of American society which

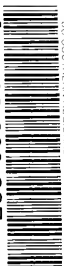
suffers neither the richest nor the oldest families to wield public influence, unless coupled with the public good; in the quickened vitality of conscience in business interests; in the swiftness and universality of *change*, teaching the total instability of terrestrial things, and man's sole dependence on himself and God; in the consequent sympathy between man and man as fellow-travellers to eternity,—are seen indications of a future which should fill all hearts with contentment and hope.

While pitying, then, the delusions of those social and literary dilettanti, whose heads are turned by a brief acquaintance with foreign society and courts, with eyes ever open to improvement, let us

“Keep all our native good, and naturalize  
All foreign of that name; but scorn their ill.”

As members of the legal profession, let us aid in perfecting American institutions by popularizing the great laws of truth. Whether latent or revealed, truth is to the moral world what, according to the igneous theory, the central fires are to the physical; though mountains sleep above them, and over them oceans unconsciously roll, they burn on, mysteriously working out good by their own internal action; but attempt to stifle their undying energy, and they upheave the waters, rend the continents, submerge whole islands, and change all earth's history and life. But employ the spirit of justice and truth in purifying and moulding *Public Opinion*, and you sway the very *soul* of your country; then, in sympathy with one of the ablest of lawyers and truest of men, can you say: The Law: it has honored us, because we honored it.

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